

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NO. 05-10019-RGS

UNITED STATES

v.

DANIEL McELROY

**MOTION FOR LEAVE TO SELF-REPORT TO
BUREAU OF PRISONS**

Daniel McElroy, defendant in the above-captioned case, moves the Court for an order permitting him to self-report to the Bureau of Prisons on September 26, 2008. In support of this motion, the defendant states:

1. The defendant was released on a \$10,000 unsecured bond following his indictment in January 2005. He has complied with the conditions of his release. The defendant was aware of the investigation which led to this indictment some time before the indictment, because of the search conducted by law enforcement. The defendant does not pose a risk of flight, nor does he pose a danger to the community.
2. The defendant expects to appeal his conviction and sentence, and has hired the law firm of Rankin & Sultan to do so. The defendant also expects to file an application with this Court for release pending appeal, pursuant to 18 U.S.C. § 3143(b). The necessary transcripts were ordered on April 25, 2008. A copy of the transcript order is attached as Exhibit A. Counsel has received some, but not all, of the transcripts that are necessary for the appeal, and for preparation of the application of a stay of execution of the sentence. A

report documenting the status of the transcript order is attached as Exhibit B.

3. The time sought for self-reporting should be adequate for the Bureau of Prisons to designate a facility for the defendant to serve his time. In addition, the time should be adequate for the court reporters to complete the remaining transcripts necessary for preparation of an application for release pending appeal. Finally, by permitting the defendant to self-report on September 26, 2008, it would allow him to comfort and support his wife when she is sentenced on September 23.

Respectfully submitted
The defendant Daniel McElroy
By his counsel

/s/ James L. Sultan

James L. Sultan, No. 488400
Rankin & Sultan
151 Merrimac St.
Boston, MA 02114
(617) 720-0011

July 18, 2008

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non participants on July 18, 2008.

/s/ James L. Sultan

James L. Sultan

RANKIN & SULTAN
ATTORNEYS AT LAW

CHARLES W. RANKIN
JAMES L. SULTAN
CATHERINE J. HINTON
MICHELLE MENKEN

151 MERRIMAC STREET, 2ND FLOOR
BOSTON, MA 02114-4717
(617) 720-0011

JONATHAN P. HARWELL
LAURA B. GITELSON

FAX (617) 742-0701
E-MAIL CRANKIN@RANKIN-SULTAN.COM

MEMORANDUM

To: James Gibbons

From: Charles W. Rankin

Cc: Steve Delinsky

Date: April 25, 2008

Re: Transcript Order in United States v. McElroy, No. 05-CR-10019-RGS

We'll be doing the appeal for Dan and Aimee McElroy. I understand that Steve Delinsky has obtained some of the transcripts, and that he has ordered others. I don't need to duplicate his order, since he'll pass along the file once he is done. However, I wanted to make sure you have an order for all of the transcripts that will be needed for the appeal. Let me know if you need payment, or anything else. Also, can you give me an estimate of when I can expect the transcripts, since I'll want to work on bail pending appeal papers. Thanks. (I'll contact the other court reporters directly).

The transcripts we will need are as follows:

<u>Date</u>	<u>Event</u>	<u>Court Reporter</u>
10/11/05	Motion hearing	Digital (before M.J. Collings)
10/17/05	Motion hearing	Cheryl Dahlstrom
6/15/06	Change of Plea	James Gibbons
1/24/07	Conference	Carol Scott
1/17/08	Hearing and Pretrial Conference	James Gibbons
1/22/08	Jury selection (Day 1)	James Gibbons
1/28/08	Day 2	James Gibbons
1/29/08	Day 3	James Gibbons
1/30/08	Day 4	James Gibbons
1/31/08	Day 5	James Gibbons

2/1/08	Day 6	James Gibbons
2/4/08	Day 7 (short day)	James Gibbons
2/6/08	Day 7	James Gibbons
2/7/08	Day 8	James Gibbons
2/8/08	Day 9	James Gibbons
2/11/08	Day 10	James Gibbons
2/12/08	Day 11	James Gibbons
2/13/08	Day 12	James Gibbons

We'll also need transcripts of the sentencing hearings.

Date	Court Reporter	Description	Status of Order
10/11/2005	Digital	Motion hearing	
10/17/2005	Dahlstrom	Motion Hearing	Received
6/15/2006	Gibbons	Change of Plea	
1/24/2007	Scott	Conference	
1/17/2008	Gibbons	Hearing and Pretrial Conference	
1/22/2008	Gibbons	Day 1-Jury Selection-preliminary instructions	
1/28/2008	Gibbons	Day 2-Openings, G-1, G-2, G-3	Excerpt received (Opening Statements)
1/29/2008	Gibbons	Day 3-G-4, G-5, G-6	Excerpt received (Testimony of George Wallace)
1/30/2008	Gibbons	Day 4-G-7, G-8, G-9, G-10	Received on 7-16-08
1/31/2008	Gibbons	Day 5-G-11, G-12	
2/1/2008	Gibbons	Day 6-G-12, G-13, G-14, G-15	Excerpt received (Testimony of James Donahue)
2/4/2008	Gibbons	Short day-Zalkind ill	
2/6/2008	Gibbons	Day 7-G-15, G-16	Excerpt Received (Testimony of Charles Wallace)
2/7/2008	Gibbons	Day 8-G-16	Received on 7-16-08
2/8/2008	Gibbons	Day 9-G-16, G-17	Excerpt Received (Testimony of Charles Wallace)
2/11/2008	Gibbons	Day 10, G-17, G-18, G-19, Gov't rests, charge conf.	Excerpt Received , but not charge conference
2/12/2008	Gibbons	Day 11, Closings, instructions, deliberations	Excerpt Received (Instructions)
2/13/2008	Gibbons	Day 12, deliberations, verdict	

7/18/2008
